

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

JOE STEPHENS

CIVIL ACTION NO. 5:19-0944

VERSUS

JUDGE TERRY A. DOUGHTY

PAUL J. CARMOUCHE, ET AL.

MAG. JUDGE KAREN L. HAYES

RULING

This is a civil rights action brought by Plaintiff Joe Stephens (“Stephens”) against former First Judicial District Attorney Paul Carmouche, Assistant District Attorney Carey D. Schimptf, and the First Judicial District Court.

Stephens has previously been barred from proceeding *in forma pauperis* because of his numerous filings which have been dismissed as frivolous and/or for failure to state a claim.

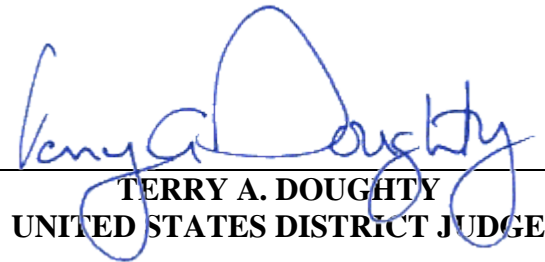
In this matter, Stephens paid his filing fee, and Magistrate Judge Hayes conducted an initial review. On August 20, 2019, she issued a Report and Recommendation [Doc. No. 8] which details Stephens’ filing of at least two prior complaints with this Court raising the same claims. Both complaints were dismissed. Because the complaint in the instant case is “duplicative and malicious,” the Magistrate Judge recommended dismissing it with prejudice.

On August 27, 2019, the Clerk of Court received multiple filings from Stephens. He filed an objection to the Report and Recommendation, which incorporated his amendment to the complaint. [Doc. No. 9]. Additionally, he filed a Motion and a Request for an Order to Withdraw. [Doc. No. 10]. In his motion, Stephens seeks a dismissal without prejudice, so he can seek an attorney to represent him on his claims.

Normally, under Federal Rule of Civil Procedure 41, a plaintiff may voluntarily dismiss his action without prejudice prior to the time that a defendant answers. As this case was on initial review, no defendant had been required to answer prior to the filing of Stephens' motion.

However, in this case, Stephens has had two previous opportunities to litigate his claims in this Court. Therefore, it is not in the interest of justice to allow him to dismiss his case without prejudice, so that he may later pursue malicious and duplicative filings. *See* 28 U.S.C. § 1915(e)(2)(B)(i). Accordingly, the Court ADOPTS the Report and Recommendation of the Magistrate Judge, after a *de novo* review of the entire record, and his case will be dismissed with prejudice.

MONROE, LOUISIANA, this 28th day of August, 2019.



TERRY A. DOUGHTY
UNITED STATES DISTRICT JUDGE